

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0782P

**Withholding Tax
For Calendar Years 1994, 1995, and 1996**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

II. **Tax Administration** – Interest

Authority: IC 6-8.1-10-1

Taxpayer protests the interest assessed.

STATEMENT OF FACTS

Taxpayer, in a letter dated December 10, 1997 protested the penalty and interest assessed and states there was a misunderstanding among personnel of the proper procedures to be completed for their computer software. Reports for the monthly totals were printed at the incorrect time, and as a result not enough tax was remitted for the year in question. Further they did not receive notification of the underpayment until the audit was performed and could have quickly resolved the problem with less interest charged to their account.

ISSUE

I. **Tax Administration** – Penalty

DISCUSSION

At issue is whether the taxpayer was negligent in reporting and remitting withholding tax.

Upon audit it was discovered that the taxpayer failed to properly reconcile its W-2's with the amounts remitted to the State. The assessment was made in accordance with 45 IAC 3.1-1-97, which states in part:

“Employers who make payment of wages subject to the Adjusted Gross Income Tax Act, and who are required to withhold Federal taxes pursuant to the Internal Revenue Code (SC Title 26), are required to withhold from employees’ wages Adjusted Gross and County Adjusted Gross Income Tax....”

Taxpayer states there was a misunderstanding of the proper procedures to be completed for the computer software.

The department finds no reasonable cause exists, therefore, the request for penalty waiver is denied.

FINDING

Taxpayer’s protest is denied.

ISSUE

II. **Tax Administration** – Interest

DISCUSSION

Taxpayer protests the interest assessed and states that they could have quickly resolved the issue with less interest charged to their account had they been notified prior to the audit.

IC 6-8.1-10-1(e) does not allow the department to waive interest imposed under this section.

FINDING

Taxpayer’s protest is denied.

CONCLUSION

Taxpayer’s protest is denied for issues I and II.